

forward the complaint to all registrants named in the complaint in accordance with this Section, no proceeding shall be held thereon and the complainant shall be notified to that effect. If the Director determines to forward the complaint as to less than all of the registrants, the complainant shall be so notified. A termination of the complaint as to any registrant shall be regarded by the Commission as without prejudice to the right of the complainant to seek such alternative forms of relief as may be available.

#### § 12.16 Response to complaint.

Within 25 days after the complaint has been served by the Office of Proceedings on the registrant, or within such additional time (not to exceed 10 days absent extraordinary circumstances) as the Director of the Office of Proceedings, or his/her delegee may grant, for good cause shown, each registrant shall either—

(a) Satisfy the complaint in accordance with § 12.17 of these rules; or

(b) Answer the complaint in the manner prescribed by § 12.18 of these rules.

[59 FR 9636, Mar. 1, 1994]

#### § 12.17 Satisfaction of complaint.

A respondent may satisfy the complaint (a) by paying to the complainant either the amount to which the complainant claims to be entitled as set forth in the complaint or such other amount as the complainant will accept in satisfaction of his claim; and (b) by submitting to the Commission notice of satisfaction and withdrawal of the complaint, duly executed by the complainant and the respondent.

#### § 12.18 Answer; election of procedure.

An answer filed pursuant to § 12.16 of these rules shall meet the following requirements:

(a) *Content.* Each answer shall contain:

(1) The full name, current address and telephone number (during business hours) of each respondent on whose behalf the answer is filed;

(2) A complete description of each registrant's case, including but not limited to, a precise and detailed state-

ment of the facts which constitute each registrant's ground for defense;

(3) Admissions, if any, as to the registrant's liability for the amount (or any portion thereof) claimed as damages;

(4) A statement indicating whether the registrant is (and if the answer is filed on behalf of two or more registrants, which if any of them are) in receivership or subject to bankruptcy proceedings;

(5) A statement indicating whether an arbitration or civil court litigation, based on the same set of facts set forth in the complaint (involving any or all of the parties named therein), is pending;

(6) A counterclaim which the registrant wishes to pursue under § 12.19 of these rules;

(7) An election of an alternative decisional procedure pursuant to subparts C, D, or E of these rules. (A proceeding pursuant to subpart D may be elected only if the amount of actual damages claimed in the complaint or as counterclaims, exclusive of interest, costs, and punitive damages, does not exceed \$30,000. A procedure pursuant to subpart E may be elected only if the amount of actual damages claimed in the complaint or as counterclaims, exclusive of interest, costs, and punitive damages exceeds \$30,000;

(8) If appropriate, a filing fee in the amount prescribed by § 12.25 shall be submitted with an answer at the time of its filing.

(b) *Motion for reconsideration of determination to forward the complaint.* An answer may include a motion for reconsideration of the determination to forward the complaint, specifying the grounds therefor, which the Director of the Office of Proceedings, in his discretion, may grant by terminating the case pursuant to § 12.27, or deny by forwarding the pleadings and matters of record for an elected decisional proceeding pursuant to § 12.26. The inclusion in an answer of a motion for reconsideration shall not preclude a respondent, if the motion is denied, from moving for dismissal at a later stage of the proceeding for the same reasons cited in a motion for reconsideration pursuant to this paragraph.

## § 12.19

(c) *Subscription and verification of the answer.* An answer shall be signed personally by each registrant on behalf of whom it is filed or by a duly authorized officer or agent of any such registrant who is not a natural person. Each registrant's signature shall be given under oath, or by affirmation under penalty of law, attesting that he has read the answer; that to the best of his knowledge all of the statements in the answer, the counterclaim (if any), and the materials required by these rules to be appended thereto, are accurate and true, and that the answer (and counterclaim, if any) has not been interposed for delay.

(d) *Affidavit of service.* The registrant shall file with his answer an affidavit showing that he has served a true copy of the answer upon the complainant, either personally or by first-class mail addressed to the complainant at the address set forth in the complaint.

(e) *Time and place of filing an answer.* An answer shall be filed by mailing or delivering a copy thereof, in proper form, to the Commission at its principal office in Washington, DC, addressed to the Office of Proceedings, Attention of the Proceedings Clerk. The answer may be filed in person, during normal business hours, or by certified mail, or registered mail with return receipt requested. If filing is by mail, it shall be addressed to the Proceedings Clerk, Office of Proceedings, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

[49 FR 6621, Feb. 22, 1984, as amended at 59 FR 9637, Mar. 1, 1994; 60 FR 49335, Sept. 25, 1995]

## § 12.19 Counterclaim.

A registrant may, at the time of filing an answer to a complaint, set forth as a counterclaim: (a) Facts alleging a violation and a request for a reparation award that would be a proper subject for a complaint under §12.13 of these rules; or

(b) Any claim which at the time the complaint is served the registrant has against the complainant if it arises out of the transaction or occurrence or series of transactions or occurrences set forth in the complaint.

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## § 12.20 Response to counterclaim; reply; election of procedure.

(a) *Response to counterclaim.* If an answer asserts a counterclaim, the complainant shall, within thirty (30) days after service upon him of the answer by the respondent: (1) Satisfy the counterclaim as if it were a complaint, in the manner prescribed by §12.17 of these rules; or (2) file a reply to the counterclaim with the Commission.

(b) *Form and content of reply.* Should the complainant, under this paragraph, elect to file a reply to a counterclaim, the reply shall be strictly confined to the matters alleged in the counterclaim and shall conform to the form and content and other requirements set forth in §12.18 of these rules.

(c) *Election of decisional procedure.* If neither the complainant nor the respondent, in the complaint or answer respectively, has previously made an election of the summary decisional procedure or the formal decisional procedure, the complainant may make such an election in his reply.

## § 12.21 Voluntary dismissal.

(a) At any time after the Director of the Office of Proceedings has served notification to the parties pursuant to §12.15 of these rules of his determination to forward the complaint to the respondent for a response, either the complainant or the respondent may obtain dismissal of the complaint (or the proceeding, if one has commenced) by filing a stipulation of dismissal, duly executed by all of the complainants and each respondent against whom the complaint has been forwarded (or added as a party in the course of a proceeding); *Provided however*, That if the stipulation is filed after any respondent has filed an answer, the terms of the stipulation shall include a dismissal of any counterclaims in the answer.

(b) A dismissal of a complaint pursuant to this paragraph shall be with prejudice to complainant's right to refile a claim in reparations based upon the same set of facts as alleged in the dismissed complaint. Unless otherwise stated in the stipulation, a dismissal ordered pursuant to this paragraph shall be regarded by the Commission as without prejudice to the parties' right